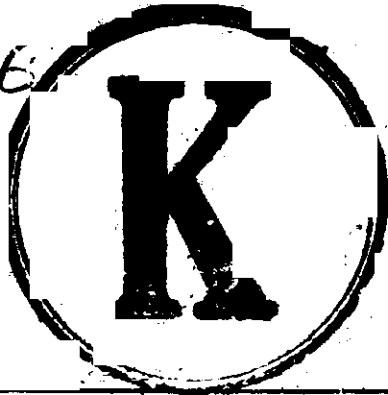


1946



File No. Civ A A ~~1111~~ / 46

Legal DEPARTMENT

A BRANCH

Subject: ⁴⁵ Civil Appeals and applications

Q. 5/1

For previous paper please see
N I

File No.

Civ A. A / 46

Std. Sect. Rlm 24. R

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58-A
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CONTENTSLegal Department File No. *Civ. AA/46. (K)*

Sr. No.	Compilation No.	Subject	Pages
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20-11-46	Judgment recorded by the H. Ct. B'ham in CA No. 715746.	1-3
	Guruppa Gurur S. Vs O. G. Binate	

K.458.

Rs.as.ps.
Sectioner:-Mr.D.T.Patwardhan. 0-10--0.
Examiner:- Mr.Neelwarna.
Reader:- Mr.Gogate. 0--2--0.
Paper charges:- 0--0--3.
Total Rs. 0--12--3.

27
Fs.5. 139

Annas twelve pies three only.

J. S. Subramanian
Deputy Sheristedar.

17-1-1947.

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21-1-1947

S. Chandrasekhar

Clerk, B. Subramanian,
High Court, Bombay.

Civil Application No. 715 of 1946.

(In Privy Council Civil Application No. 970 of 1939).
(First Appeal No. 285 of 1937).

Gurunatharudhswami Guru Shidhrudhswami described in the
Trial Court as Guruppa Guru Shidharudhswami
(Appellant). Applicant.

Versus.

Bhimappa Gangadharappa Diwate; and another.
(Respondent No.1 and added Opponent). Opponent.

Application praying that respondent No.1 be asked to
make an application for bringing on record any person who
is interested in the alleged trust property for further pro-
-secution of the Privy Council Appeal if necessary and the
delay if any may be condoned.

M/s A.G.Desai, and G.A.Desai, Advocates for the Applicant.

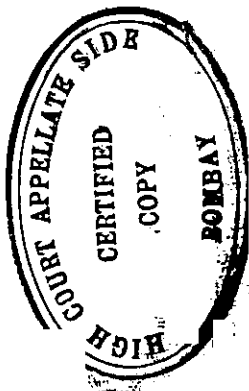
Mr.B.N.Gokhale, Advocate for the Opponent.

The Assistant Government Pleader for the Advocate General.

Coram:-Macklin and Gajendragadkar JJ.

20th November 1946

Oral Judgment (Per Macklin, J):-- A suit prosecuted by the
plaintiffs under section 92 of the Civil Procedure Code was
decided in favour of the plaintiffs, and in due course the
defendant appealed to His Majesty in Council. That matter,
we understand, it still pending before the Privy Council, and
the record has been printed. The applicant has now presented
an application to this Court asking that a suitable person



should be placed on the record ~~on~~ the appeal as respondent in place of the name of one of the two ~~app~~ plaintiffs who died after the matter had been sent to the Privy Council. Notice was issued by this Court, and in reply to the notice the surviving plaintiff stated that he did not wish to be continued on the record of the appeal and suggested that, if necessary, the Advocate General might be substituted as respondent. The Advocate General has appeared and states that he does not wish to be represented on the appeal as respondent. The question then is what we are to do. We are of opinion that we have no power to pass any orders in this matter except orders of rejection, since the matter is now in the hands of the Privy Council. We have been referred to Rule 51 at page 196 of Bentwich's Privy Council Practice, by which we could give an opinion as to the proper person to be substituted or entered on the record in place of the deceased plaintiff. But we are unable to do that in the absence of any suggestion from the applicant himself. Moreover the applicant himself states that he does not consider that his application is strictly necessary. In these circumstances we dismiss the application and suggest to the applicant that he present his application to the Privy Council, if so advised. In order to enable him to do so, we are prepared to allow him to take a copy of the reply of the respondent to the application which he has made in this Court. The applicant must pay his own costs. The costs of both the opponents must come out of the estate.

order of the Court.

Sd/- R.S. Vaze.

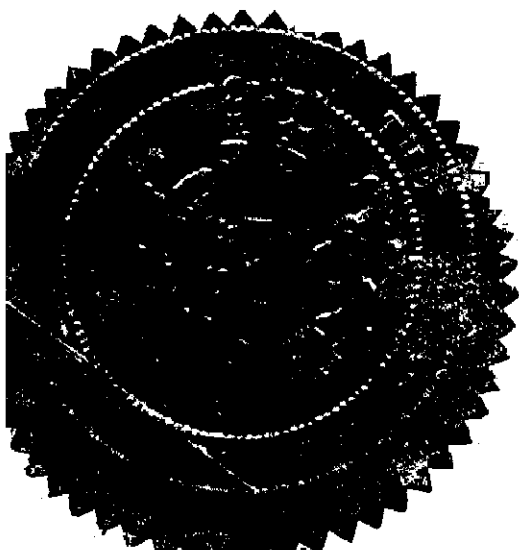
R e g i s t r a r .

True copy

S. M. Chavande

Deputy Registrar.

The 17th day of January 1947.



N. 458.

Sectioner:- Mr. D. T. Ratwardhan. Rs. as. ps. 0--6--0.
Examiner:- Mr. Neelwama.
Reader:- Mr. Gogate. *Kilgash* 0--1--0.
paper charges:- 0--0--3..
Total Rs. 0--7--3.

Annas seven pies three only.

J. S. V. S.
Deputy Sheristedar.
17-1-1947.

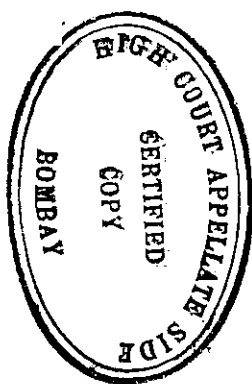
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J. S. V. S.
Assistant Superintendent.

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21-1-1947

S. S. Chandan
Sark. & Government.
High Court



In His Majesty's High Court of Judicature at Bombay.
Order passed by the High Court in the case of
Gurunatharudhaswami Guru Shidharudhswami described in
the trial Court as Gurappa Guru Shidharudhawami.
--(Appellant). Applicant.
Versus

Bhimappa Gangadharappa. Diwate
(Respondent). ..Opponent.

Being Civil Application No. 715 of 1946 in Privy Council
Appeal.
Civil Application No. 970 of 1939 for leave to appeal to
Privy Council in First Appeal No. 285 of 1937 Suit No.
61 of 1929.

M/s A.G. Desai and G.A. Desai Advocates for the Applicant.
Mr. B. N. Gokhale Advocate for the Opponent.
The Assistant Government Pleader for the Advocate General.

Coram:-Macklin and Gajendragadkar JJ.

For the reasons stated in the accompanying
Judgment, the Court dismisses the application and suggest
that the applicant present his application to the Privy
Council if so desired.

The Applicant to bear his own costs, the Costs
of both the Opponents must come out of the estate.

Sd/-S. H. Belavadi.
Deputy Registrar.

The 20th day of November 1946.

Bill of costs in the High Court..

By the Applicant:--	Rs.as.ps.
Stamps for Application	5--0--0.
Stamps for vakalatnama in appeal.	0--0--0.
Bhatta for process.	5--0--0;
Advocate's Fee (one-fourth).	722--13--0.

Total Rs.	732--13--0.

By the Opponent.	
Stamps for ~~Application~~ Vakalatnama.	2--8--0.
Advocate's Fee (one-fourth).	722-13--0.

Total Rs.	725--5--0.

By the Advocate General.	
Stamps for Vakalatnama. (Government pleader appears).	0--0--0.
Advocate's Fee.	722-13--0. ✓

Total Rs.	722--13--0.

171

Sd/- S.H.Belavadi.

Deputy Registrar.

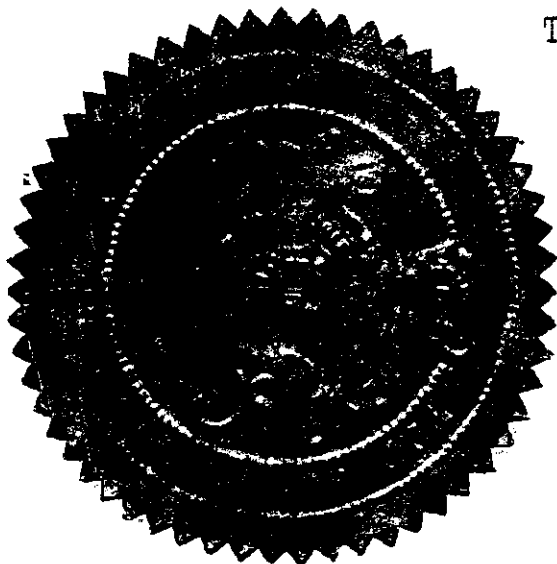
The 20th day of November 1946.

True Copy

S.H. Belavadi

Deputy Registrar.

The 17th day of January 1947.



*File with Mr.
P. A. RA/40-PL 11*